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345-00 201 A/FWC
07 896725
PATENT APPLICATION
DOCKET NO.: SPC89-05'

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Timothy J. Barberich and James W. Young

Prior Application Serial No.: 07/461,262 Attorney's Docket No.: SPC89-05'

Prior Application Filing Date: January 5, 1990

For METHOD FOR TREATING ASTHMA USING OPTICALLY PURE R(-) ALBUTEROL

Anticipated Classification: Prior application:

of this Application: Examiner: L. Schenkman

Class Subclass Art Unit: 1205

Commissioner of Patents and Trademarks
Box FWC
Washington, D.C. 20231

FILE WRAPPER CONTINUING APPLICATION (FWC)

1. This is a request for a filing under the file wrapper continuing application procedure, 37 CFR 1.62, for a

- ☒ continuation
☐ divisional
☐ continuation-in-part (for oath or declaration see II below)
☐ attached is an amendment for added subject matter of prior application
Serial No. _____ filed on _____

CERTIFICATION UNDER 37 CFR 1.10

I hereby certify that this FWC transmittal and the documents referred to as attached therein are being deposited with the United States Postal Service on this date June 9, 1992 in an envelope as "Express Mail Post Office to Addressee" mailing Label Number RB 794623247 addressed to the:

Commissioner of Patents and Trademarks
Box FWC
Washington, D.C. 20231

Barbara J. Nannis

(Type or print name of person mailing paper)

Barbara J. Nannis
(Signature of person mailing paper)

Extension of time to OP

(further particulars of prior application are)

1. Title (as originally filed) METHOD FOR TREATING ASTHMA USING OPTICALLY PURE R(-) ALBUTEROL
(and as last amended) _____

2. Name of applicant(s) (as originally filed and as last amended) and current correspondence address of applicant(s)

| | FAMILY NAME | FIRST GIVEN NAME | SECOND GIVEN NAME |
|-------------------------|----------------------|--------------------------|--------------------------|
| FULL NAME OF INVENTOR | <u>Barbarich</u> | <u>1-00 Timothy</u> | <u>J.</u> |
| CITY | | STATE OR FOREIGN COUNTRY | COUNTRY OF CITIZENSHIP |
| RESIDENCE & CITIZENSHIP | <u>Concord</u> | MA <u>MA</u> | U.S.A. |
| POST OFFICE ADDRESS | | CITY | STATE & ZIP CODE/COUNTRY |
| POST OFFICE ADDRESS | 73 Nashoba Road | Concord | MA 01742 U.S.A. |
| | FAMILY NAME | FIRST GIVEN NAME | SECOND GIVEN NAME |
| FULL NAME OF INVENTOR | <u>Young</u> | <u>2-00 James</u> | <u>W.</u> |
| CITY | | STATE OR FOREIGN COUNTRY | COUNTRY OF CITIZENSHIP |
| RESIDENCE & CITIZENSHIP | <u>Still River</u> | MA <u>MA</u> | U.S.A. |
| POST OFFICE ADDRESS | | CITY | STATE & ZIP CODE/COUNTRY |
| POST OFFICE ADDRESS | 295 Still River Road | Still River | MA 01467 U.S.A. |
| | FAMILY NAME | FIRST GIVEN NAME | SECOND GIVEN NAME |
| FULL NAME OF INVENTOR | | | |
| CITY | | STATE OR FOREIGN COUNTRY | COUNTRY OF CITIZENSHIP |
| RESIDENCE & CITIZENSHIP | | | |
| POST OFFICE ADDRESS | | CITY | STATE & ZIP CODE/COUNTRY |

The above-identified application in which no payment of issue fee, abandonment of, or termination of proceedings has occurred, is hereby expressly abandoned as of the filing date of this new application. Please use all the contents of the prior application file wrapper, including the drawings, as the basic papers for the new application.

It is understood that secrecy under 35 U.S.C. 122 is hereby waived to the extent that if information or access is available to any one of the applications in the file wrapper of a 37 CFR 1.62 application, be it either this application or a prior application in the same file wrapper, the PTO may provide similar information or access to all the other applications in the same file wrapper.

II. Declaration or oath

A. Continuation or divisional

☒ none required

B. Continuation-in-part

☐ attached

☐ an original

executed by (check all applicable items)

☐ inventor(s).

☐ legal representative of inventor(s)
37 CFR 1.42 or 1.43.

☐ joint inventor or person showing a
proprietary interest for inventor
who refused to sign or cannot be
reached. 37 CFR 1.47;

☐ This is the petition required
by 37 CFR 1.47 and the
statement required by 37 CFR
1.47 is also attached. See
item V below for fee.

☐ not attached

Application is made by a person authorized under 37 CFR 1.41(c) on behalf of all of the above-named applicant(s). The declaration or oath, along with the surcharge required by 37 CFR 1.16(e), can be filed subsequently.

☐ showing that the filing is authorized. (Not required unless called into question. 37 CFR 1.41(d)).

III. Please enter the previously filed amendment under 37 CFR 1.116 from the prior application.

IV. Fee Calculation

- X The fees to be charged are to be based on the number of claims remaining as a result of the
 attached preliminary amendment
 the unentered amendment filed under 37 CFR 1.116 in the prior application
X the claims as on file in the prior application

CLAIMS FOR FEE CALCULATION

The filing fee has been calculated as shown below:

| | | (Col. 1) | (Col. 2) | SMALL ENTITY | | | | OTHER THAN A SMALL ENTITY | | |
|--|---|-----------|--------------|-----------------|-------|-----------|----|---------------------------|-------|---------|
| FOR: | * | NO. FILED | * NO. EXTRA* | * | RATE | * FEE * | OR | * | RATE | * FEE |
| BASIC FEE | * | | * | * | | * \$345 * | OR | * | | * \$690 |
| TOTAL | * | | * | * | | * | | * | | * |
| CLAIMS | * | 10 -20= | * * 0 | * | x10= | * \$ 0 * | OR | * | x20= | * \$ |
| INDEP | * | | * | * | | * | | * | | * |
| CLAIMS | * | 3 -3= | * * 0 | * | x36= | * \$ 0 * | OR | * | x72= | * \$ |
| [] MULTIPLE DEPENDENT CLAIM PRESENTED | | | | * | | * | | * | | * |
| * If the difference in Col. 1 is less than zero, enter "0" in Col. 2 | | | | * | x110= | * \$ * | OR | * | x220= | * \$ |
| | | | | Assignment* | | | | Assignment * | | |
| | | | | Fee:* | | | | Fee:* | | |
| | | | | TOTAL: \$345.00 | | | | TOTAL: _____ | | |

Small Entity Statement

- A verified statement that this is a filing by a small entity is attached.
X The small entity statement was filed in the parent application Serial No. 07/461,262 on March 9, 1990 and its benefit under 37 CFR 1.28(a) is hereby claimed.

V. Fee Payment Being Made At This Time

Method of Payment of Fees

- X attached is check in the amount of \$ 345.00
 charge Account No. _____ in the amount of \$ _____

VI. Authorization to Charge Additional Fees

- X The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 08-0380. Two duplicate copies of this letter are enclosed.
- X Any additional filing fees required under 37 CFR 1.16.
- X Any patent application processing fees under 37 CFR 1.17.
- X The Commissioner is hereby authorized to charge payment of the following fees during pendency of this application or credit any overpayment to Deposit Account No. 08-0380. Two duplicate copies of this letter are enclosed.
- X Any patent application processing fees under 37 CFR 1.17.
- X Any filing fees under 37 CFR 1.16 for presentation of extra claims.

VII. Instructions as to Overpayment

- X credit Account No. 08-0380
- refund

VIII. Prior Foreign Applications and Claim to Priority - 35 U.S.C. 119

Listed below are foreign application(s) for patent or inventor's certificate on which priority is claimed. Also identified are any foreign application(s) for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

| | | | Priority Claimed | |
|----------|-----------|------------------------|------------------|----|
| (Number) | (Country) | (Day/Month/Year filed) | Yes | No |
| | | | | |
| (Number) | (Country) | (Day/Month/Year filed) | Yes | No |
| | | | | |
| (Number) | (Country) | (Day/Month/Year filed) | Yes | No |
| | | | | |

IX. Relate Back - 35 U.S.C. 120

X Amend the specification by inserting before the first line the sentence:

GI ~~This~~ is a
X continuation
 divisional
 continuation-in-part

CI
7/14/94
of co-pending application Serial No. 07/461,262 filed
on January 5, 1990 *now Abandoned*

X. Assignment

X the prior application is assigned of record to
 Sepracor, Inc., 33 Locke Drive, Marlborough, MA 01752
 an assignment of the invention to
 is attached.

XI. Power of Attorney

The power of attorney in the prior application is to
Attorney Registration No.

| | |
|------------------------|--------|
| David E. Brook | 22,592 |
| James M. Smith | 28,043 |
| Leo R. Reynolds | 20,884 |
| Giulio A. DeConti, Jr. | 31,503 |
| Richard A. Wise | 18,041 |
| Patricia Granahan | 32,227 |
| Mary Lou Wakimura | 31,804 |
| Thomas O. Hoover | 32,470 |
| Paula A. Campbell | 32,503 |
| Alice C. Olek | 33,542 |

- a. ☒ The power appears in the original papers in the prior application.
b. ☐ The power does not appear in the original papers, but was filed on _____.
c. ☒ A new* power has been executed and is attached.
d. ☒ Address all future communications to:

Patricia Granahan

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

Two Militia Drive

Lexington, MA 02173

*Associate Power of Attorney

XII. Maintenance of Copendency of Prior Application

Please abandon the prior application when any petition for extension of time filed in that application is granted and when this application is granted a filing date so as to make this application copending with said prior application.

☐ A petition, fee and response has been filed to extend the term for response in the pending prior application until _____.

☒ A petition and fee is attached to extend the term for response in the pending prior application until June 9, 1992.

☐ The term for response in the pending prior application expires _____.

Richard W. Wagner

Type or print name of person signing

Richard W. Wagner

Signature

June 9, 1992
Date

P.O. Address of Signatory:

Two Militia Drive

Lexington, MA 02173

☐ Inventor

☐ Assignee of complete interest

☐ Person authorized to sign on behalf of assignee

Title _____

Tel. No.: (617) 861-6240

☒ Attorney or agent of record
☐ Filed under Rule 34(a)

Reg. No.: _____
(if applicable)